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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,788	09/16/2003	Giovanni Arduini	37261P091	4808

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EXAMINER

PAHNG, JASON Y

ART UNIT	PAPER NUMBER
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3725

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/664,788

Applicant(s)

ARDUINI, GIOVANNI

Examiner

Jason Y. Pahng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/12/04 & 10/28/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

With regard to claim 1, the word "type" in line 4 should be removed in order to more clearly define the boundary of the invention.

With regard to claim 14, the phrase "wherein hinged by a hinge on the exterior of said container is an operating lever for said rack", should be rephrased to be, "further including an operating lever for said rack, wherein said operating lever is hinged by a hinge on the exterior of said container", in order to avoid any unnecessary confusion.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8, and 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by David (US 4,374,574).

With regard to claim 1, David discloses a condiment grinder including:

1. a container (21; Figure 3) with a shaft (9, 10; Figure 1) passing therethrough;
2. the shaft (9, 10) bearing conical round grinder plates (27);
3. the shaft (9, 10) having at its upper end a toothed wheel (11) operatively connected to a rack (19); and

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4. the rack (19) sliding in a perpendicular direction to the axis of the shaft (9, 10).

With regard to claim 2, David discloses the rack (19) which is biased to a release position by a return spring (17 or 23).

With regard to claim 3, David discloses the return spring (23) which is located in a longitudinal cavity of the rack (19).

With regard to claim 4, David discloses the return spring (23) which is arranged to apply a torque to the toothed wheel (11).

With regard to claim 5, David discloses a bearing element (16) provided at one end of a rack (19), wherein the bearing element juts out beyond the side of the container.

With regard to claim 8, David discloses the toothed wheel (11), spring (23), and the rack (19) contained inside an upper casing connected to an upper end of the container (21).

With regard to claims 14 and 15, David discloses an operating lever (30) which is hinged by a hinge (29) on the exterior of the lower end of the container (28).

With regard to claim 16, David discloses the bearing element (16) engaged with an upper end of an operating lever (13) hinged by a hinge (14) to the exterior of a container (1).

With regard to claim 17, David discloses the bearing element (between 33 and 30) fitted into a longitudinal cavity provided in an upper inner part of the operating lever (30). See Figure 5.

With regard to claim 18, David discloses the container and the operating lever of a size suited for hand-held operation (column 1, lines 9-12).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 7, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over David (US 4,374,574) in view of Wu (US 2002/0145064).

With regard to claim 6, David discloses a catch (Figure 3), but does not disclose that the catch is located above the gear and lever mechanism. In a closely related art, Wu discloses a condiment grinder with a catch (53) located above the gear and lever mechanism in order to avoid the catch from interfering with the condiment. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide David with a catch located above the gear and lever mechanism in order to avoid the catch from interfering with the condiment, as taught by Wu.

With regard to claims 7 and 19, David discloses a catch pushed against a toothed wheel by a spring, wherein the lower teeth of the catch and the mating corresponding upper teeth have straight teeth on one side and inclined teeth on the other. See Figure 3.

Claims 9 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over David (US 4,374,574) in view of Lee et al. (US 6,550,706).

Claim 9 calls for an opening at the top of the upper casing. In a closely related art, Lee discloses a condiment grinder with an opening (32) at the top of the upper casing in order to add more condiment in the container. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide David with an opening at the top of the upper casing in order to add more condiment in the container, as taught by Lee.

With regard to claim 22, David discloses the upper casing substantially tubular. See Figure 2.

Claims 9-11, 20, 21, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over David (US 4,374,574) in view of Ancona et al. (US 6,343,546).

Claims 9 and 10 call for an opening in the upper casing connected to a chute which extends through an opening in a partition separating the rack from the container containing grindable product. In a closely related art pertinent to the problem, Ancona discloses a food spinner with an opening (28) in the upper casing connected to a chute which extends through an opening in a partition separating the rack from the container containing grindable product in order to add more food in the container (Figure 4). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide David with an opening at the top of the upper casing in order to refill condiment in the container, as taught by Ancona.

With regard to claim 11, Ancona already discloses a lid for the opening (Figure 4).

With regard to claim 20, David discloses a tubular container (Figure 2) and a shaft passing longitudinally through the container.

With regard to claim 21, David discloses grinder plates located in a base which is open at the bottom and connected to the bottom of the container (Figure 3).

With regard to claim 26, Examiner takes an Official Notice that use of a ratchet mechanism in order to couple grinder plates to a shaft is obvious to an ordinary skill in the art. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to teach David to use a ratchet mechanism in order to couple grinder plates to a shaft, as such is well known and obvious in the art.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over David (US 4,374,574) in view of Ancona et al. (US 6,343,546) as applied above, further in view of Lin (US 5,156,084). The claims call the lid to be capable of being rotated around a fastener provided on an axis parallel to the axis of the shaft. In a closely related art, Lin teaches that a lid (2) with an opening (23) may be rotated around a fastener (14) provided on an axis (31) parallel to the axis of the shaft (31) in order to secure the lid. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide David (as modified) with a lid with an opening capable of being rotated around a fastener provided on an axis parallel to the axis of the shaft in order to secure the lid, as taught by Lin.

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Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over David (US 4,374,574) in view of Ancona et al. (US 6,343,546) as applied above, further in view of McCowin (US 6,851,635). The claim calls for the container to be transparent. In a closely related art, McCowin teaches that a transparent container may be used (column 2, lines 56-59) in order to allow a user to see how much condiment remains. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide David (as modified) with a transparent container in order to allow a user to see how much condiment remains, as taught by McCowin.

Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over David (US 4,374,574) in view of Ancona et al. (US 6,343,546) as applied above, further in view of Florian (US 3,273,240).

Claim 24 calls for a latch mechanism. In a closely related art pertinent to the problem, Florian discloses a hand-held cutting device comprising a latch mechanism (column 1, lines 29-35) in order to selectively retain a handle in a non-operative position. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide David (as modified) with a transparent container in order to allow a user to see how much condiment remains, as taught by Florian.

With regard to claim 25, Florian already discloses a button (34) slidably engaged with the handle.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Y. Pahng whose telephone number is 571 272 4522. The examiner can normally be reached on 9:30 AM - 8:00 PM, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Banks H. Derris can be reached on 571 272 4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JYP



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